

1  
2  
3  
4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 JOHN DEWAYNE BARNES,

8 Plaintiff,

9 v.

10 LAS VEGAS METROPOLITAN POLICE  
11 DEPARTMENT DETENTION SERVICE  
12 DIVISION, *et al.*,

Defendants.

Case No. 2:18-cv-00168-RFB-GWF

**ORDER**

13 This matter is before the Court on Plaintiff's Motion for Service on Doe Defendant (ECF  
14 No. 12), filed on February 21, 2019. Also before the Court is Plaintiff's Motion to Identify John  
15 Doe (ECF No. 13), filed on March 5, 2019.

16 On December 27, 2018, the Court issued its screening order and dismissed Defendants  
17 Lombardo and the Las Vegas Metropolitan Police Department Detention Service Division  
18 ("LVMPD"). *See* ECF No. 3. The Court, however, held that Count I alleging due process based  
19 on a property interest and Count II alleging due process based on a liberty interest will proceed  
20 against Defendant John Doe #6453. *Id.* The Court further instructed the Clerk of the Court to issue  
21 summons for Defendant Whetsel and deliver same to the U.S. Marshal for service. *Id.* Plaintiff  
22 requests that the Court serve the doe defendant and to instruct the defendants to identify Defendant  
23 "John Doe #6453." Plaintiff represents that Defendant John Doe #6453 is an officer with LVMPD.


24 Generally, the use of "John Doe" to identify a defendant is not favored. *Gillespie v.*  
25 *Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). However, where the identity of alleged defendants  
26 will not be known prior to the filing of a complaint, the plaintiff should be given an opportunity  
27 through discovery to identify the unknown defendants, unless it is clear that discovery would not  
28 uncover the identities, or that the complaint would be dismissed on other grounds. *Id.* *See also*

1 *Cameron v. Cty. of Clark Nevada*, 2018 WL 2304037, at \*3 (D. Nev. May 21, 2018). Plaintiff,  
2 therefore, is permitted to conduct limited pre-service discovery according to the Federal Rules of  
3 Civil Procedure to ascertain the true identity of the officer that is identified as John Doe #6453 in  
4 his complaint. After the LVMPD has identified the doe defendant, Plaintiff may file a renewed  
5 motion to direct service to the doe defendant through the U.S. Marshal's Office. The Court,  
6 therefore, denies Plaintiff's motions according to the provisions herein. Accordingly,

7 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Service on Doe Defendant (ECF  
8 No. 12) is **denied**, without prejudice.

9 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Identify John Doe (ECF No. 13)  
10 is **denied**.

11 Dated this 28th day of March, 2019.

12  
13   
14 GEORGE FOLEY, JR.  
15 UNITED STATES MAGISTRATE JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28